

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 428 be amended to read as follows:

- 1 Page 1, between lines 4 and 5, begin a new paragraph and insert:
- 2 "SECTION 2. IC 12-15-13-3 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the office of
- 4 the secretary believes that an overpayment to a provider has occurred,
- 5 the office of the secretary may do the following:
- 6 (1) Notify the provider in writing that the office of the secretary
- 7 believes that an overpayment has occurred.
- 8 (2) Request in the notice that the provider repay the amount of the
- 9 alleged overpayment, including interest, **in accordance with this**
- 10 **section**, from the date of overpayment.
- 11 (b) Except as provided in subsection (e), a provider who receives a
- 12 notice and request for repayment under subsection (a) may elect to do
- 13 one (1) of the following:
- 14 (1) Repay the amount of the overpayment not later than sixty (60)
- 15 days after receiving notice from the office of the secretary,
- 16 including interest, **in accordance with this section**, from the date
- 17 of overpayment.
- 18 (2) Request a hearing and repay the amount of the alleged
- 19 overpayment not later than sixty (60) days after receiving notice
- 20 from the office of the secretary.
- 21 (3) Request a hearing not later than sixty (60) days after receiving
- 22 notice from the office of the secretary and not repay the alleged
- 23 overpayment, except as provided in subsection (d).
- 24 (c) If:

1 (1) a provider elects to proceed under subsection (b)(2); and
 2 (2) the office of the secretary determines after the hearing and any
 3 subsequent appeal that the provider does not owe the money that
 4 the office of the secretary believed the provider owed;
 5 the office of the secretary shall return the amount of the alleged
 6 overpayment and interest paid and pay the provider interest on the
 7 money from the date of the provider's repayment.

8 (d) If:

9 (1) a provider elects to proceed under subsection (b)(3); and
 10 (2) the office of the secretary determines after the hearing and any
 11 subsequent appeal that the provider owes the money;
 12 the provider shall pay the amount of the overpayment, including
 13 interest, **in accordance with this section**, from the date of the
 14 overpayment.

15 (e) A hospital licensed under IC 16-21 that receives a notice and
 16 request for repayment under subsection (a) has one hundred eighty
 17 (180) days to elect one (1) of the actions under subsection (b)(1),
 18 (b)(2), or (b)(3).

19 (f) Interest that is due under this section shall be paid at a rate that
 20 is determined by the commissioner of the department of state revenue
 21 under IC 6-8.1-10-1(c) as follows:

22 (1) Interest due from a provider to the state shall be paid at the
 23 rate set by the commissioner for interest payments from the
 24 department of state revenue to a taxpayer.

25 (2) Interest due from the state to a provider shall be paid at the
 26 rate set by the commissioner for interest payments from the
 27 department of state revenue to a taxpayer.

28 **(g) Interest is due under this section only when the**
 29 **overpayment is the result of the provider violating a federal or**
 30 **state statute, rule, or published Medicaid policy.**

31 **(h) The office of the secretary may reduce the amount of**
 32 **interest under this section in any of the following circumstances:**

33 **(1) There was a significant delay in:**

34 **(A) the timely identification of the overpayment by the**
 35 **office; or**

36 **(B) the timely response to an appeal filed under**
 37 **subsection (b); and**

38 **the provider and the office mutually agree on the reduced**
 39 **interest amount.**

40 **(2) Other compelling circumstances as determined on a case**
 41 **by case basis by the office.**

42 ~~(g)~~ **(i) Proceedings under this section are subject to IC 4-21.5."**

43 Page 9, between lines 14 and 15, begin a new paragraph and insert:

44 "SECTION 7. IC 12-15-21-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The rules adopted under section 2 of this chapter must include the following:

- (1) Providing for prior review and approval of medical services.
- (2) Specifying the method of determining the amount of reimbursement for services.
- (3) Establishing limitations that are consistent with medical necessity concerning the amount, scope, and duration of the services and supplies to be provided. The rules may contain limitations on services that are more restrictive than allowed under a provider's scope of practice (as defined in Indiana law).
- (4) Denying payment or instructing the contractor under IC 12-15-30 to deny payment to a provider for services provided to an individual or claimed to be provided to an individual if the office after investigation finds any of the following:
 - (A) The services claimed cannot be documented by the provider.
 - (B) The claims were made for services or materials determined by licensed medical staff of the office as not medically reasonable and necessary.
 - (C) The amount claimed for the services has been or can be paid from other sources.
 - (D) The services claimed were provided to a person other than the person in whose name the claim is made.
 - (E) The services claimed were provided to a person who was not eligible for Medicaid.
 - (F) The claim rises out of an act or practice prohibited by law or by rules of the secretary.
- (5) Recovering payment or instructing the contractor under IC 12-15-30-3 to recover payment from a provider for services rendered to an individual or claimed to be rendered to an individual if the office after investigation finds any of the following:
 - (A) The services paid for cannot be documented by the provider.
 - (B) The amount paid for such services has been or can be paid from other sources.
 - (C) The services were provided to a person other than the person in whose name the claim was made and paid.
 - (D) The services paid for were provided to a person who was not eligible for Medicaid.
 - (E) The paid claim rises out of an act or practice prohibited by law or by rules of the secretary.
- (6) Recovering interest **as provided for in IC 12-15-13-3:**
 - (A) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's

comprehensive annual financial report; and
 (B) accruing from the date of overpayment;
 on amounts paid to a provider that are in excess of the amount
 subsequently determined to be due the provider as a result of an
 audit, a reimbursement cost settlement, or a judicial or an
 administrative proceeding.

(7) Paying interest to providers:

(A) at a rate that is the percentage rounded to the nearest whole
 number that equals the average investment yield on state money
 for the state's previous fiscal year, excluding pension fund
 investments, as published in the auditor of state's
 comprehensive annual financial report; and

(B) accruing from the date that an overpayment is erroneously
 recovered by the office until the office restores the
 overpayment to the provider.

(8) Establishing a system with the following conditions:

(A) Audits may be conducted by the office after service has
 been provided and before reimbursement for the service has
 been made.

(B) Reimbursement for services may be denied if an audit
 conducted under clause (A) concludes that reimbursement
 should be denied.

(C) Audits may be conducted by the office after service has
 been provided and after reimbursement has been made.

(D) Reimbursement for services may be recovered if an audit
 conducted under clause (C) concludes that the money
 reimbursed should be recovered.

SECTION 8. IC 12-15-23-3 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. An agreement under
 section 2 of this chapter:

(1) **except as provided in IC 12-15-13-3**, must include a
 provision for the collection of interest on the amount of the
 overpayment; and

(2) may include any other provisions agreed to by the
 administrator and the provider."

Renumber all SECTIONS consecutively.

(Reference is to ESB 428 as printed February 20, 2004.)

Representative Becker